

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ADRIEL OSORIO, on behalf of himself	)	
and all similarly situated persons,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 08CV3228
	)	
SPRINT NEXTEL CORPORATION;	)	Judge Darrah
SPRINT/UNITED MANAGEMENT	)	
COMPANY, and DOES 1-20,	)	
	)	
Defendants.	)	

**DEFENDANT’S MOTION TO STAY AND  
MOTION TO DISMISS STATE-LAW CLASS ACTION CLAIMS  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

For the reasons set forth in its accompanying Memorandum of Law in Support of this motion, filed concurrently herewith, Defendant Sprint/United Management Company<sup>1</sup> (“Sprint”) moves the Court to stay this action pending resolution of a duplicative, parallel action already pending in the United States District Court for the Southern District of New York.

Sprint further moves, as set forth in its Memorandum, to dismiss Plaintiff’s Rule 23 state-law class action claims, Counts II-V, pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted, because the class action mechanism is inherently incompatible with the opt-in collective action procedure under the FLSA and because a class action is not superior to other methods of adjudicating Plaintiff’s state-law claims for unpaid wages.

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<sup>1</sup> Pursuant to discussions with counsel of record for Plaintiff, Defendant understands that Plaintiff intends to dismiss Defendant Sprint Nextel Corporation from this case without prejudice. As such, this Motion is filed only on behalf of Sprint.

For the reasons set forth herein and in Sprint's Memorandum in Support, Defendant respectfully requests that the Court (a) stay these proceedings until such time as the prior pending action described in its Memorandum of Law is resolved and (b) dismiss Plaintiff's Rule 23 claims.

SPRINT/UNITED MANAGEMENT COMPANY

By /s/ Michael L. Sullivan  
One of Its Attorneys

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